

Rule 4008. Discharge and Reaffirmation Hearing

Not more than 30 days following the entry of an order granting or denying a discharge, or confirming a plan in a chapter 11 reorganization case concerning an individual debtor and on not less than 10 days notice to the debtor and the trustee, the court may hold a hearing as provided in § 524(d) of the Code. A motion by the debtor for approval of a reaffirmation agreement shall be filed before or at the hearing. The debtor's statement required under § 524(k) shall be accompanied by a statement of the total income and total expense amounts stated on schedules I and J. If there is a difference between the income and expense amounts stated on schedules I and J and the statement required under § 524(k), the accompanying statement shall include an explanation of any difference.

Rule 4008 COMMITTEE NOTE

Rule 4008 is amended to reflect the 2005 addition of §§ 524(k)(6)(A) and 524(m) to the Bankruptcy Code. These provisions require that a debtor file a signed statement in support of a reaffirmation agreement, and authorize a court to review the agreement if, based on the assertions on the statement, the agreement is presumed to be an undue hardship. The rule revision requires that an accompanying statement show the total income and expense amounts stated on schedules I and J and an explanation of any discrepancies. This will allow the court to evaluate the reaffirmation for undue hardship as § 524(m) requires. A corresponding change has been made to Rule 4004(c) to prevent the entry of a discharge until the court has approved or disapproved the reaffirmation agreement in accordance with § 524(m).